REMARKS/ARGUMENTS

Upon entry of this Response into the above-identified application, claims 1, 2 5-8, 12 and 32-34 will be under active consideration in the subject patent application.

A Request for Continuing Examination (RCE) application has been filed in conjunction with this Response to the Final Official Action mailed on September 15, 2008.

The Director is hereby authorized to charge small-entity fees for the RCE fee required under 37 CFR 1.17(e), namely $405.00, and the Petition fee for a three (3) month extension of time to file the Response, namely $525.00, to Deposit Account No. 04-1679.

In the Final Action, the Examiner:

(1) rejected Claims 1, 5-7, 12, 32-34 as being anticipated by Rampton (WO 95/03371);

(2) rejected Claim 2 as being anticipated by Lebo (3,960,718); and

(3) rejected Claim 8 as being anticipated by Rampton (WO 95/03371).

With regard to Item 1, Applicant respectfully traverses the Examiner's rejection of Claims 1, 5-7, 12, and 32-34 as being anticipated by the "Rampton" reference (WO 95/03371). As the Examiner is aware, anticipation under 35 USC §102 requires that each and every element of the invention defined in a claim be met in a single prior art reference. Those elements must either be inherent or expressly disclosed, and must be arranged as described in the claim. See, *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 913 (Fed. Cir. 1989); *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988); *Constant v. Advanced Micro-Devices, Inc.*,

848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988). The Rampton reference describes a method for the manufacture of a peat moss alternative, in which sawmill waste is fed into a reaction vessel 12 (Fig. 2) substantially filled with heated water. At page 6, lines 16 to 21, Rampton discloses that ". . . *as the particulate bark is added to the reaction vessel it floats on the surface of the aqueous limestone suspension within the tank. The floating layer of bark is conveyed from one end of the vessel to the other at a predetermined rate . . .*" (emphasis added). In the paragraph bridging pages 6 and 7, Rampton discloses that "*. . . as the bark particles progress along the surface of the water in the vessel 12, particles of sapwood exogenous bark, endogenous bark, dirt and other contaminants sink to the floor of vessel 12 . . .* " (emphasis added). Additionally, at page 7, lines 19 to 24, Rampton teaches that " . . . *as the hot treated bark particles come into contact with the cold water [in separation vessel 19] the exogenous bark portion separates from the sapwood and endogenous bark portions and the latter sink to the floor of vessel 19 while the exogenous bark portion continues to float. . .* " (emphasis added).

In stark contrast, the present invention discloses a method for production of organic plant growth media from sawmill waste, including the step of submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time to kill microorganisms, insects, plant and animal parasites, and the like while at the same time transporting treated sawmill waste toward an outlet of a conveyor mechanism, as defined in independent claim 1.

Nowhere within the four corners of the Rampton reference is there a disclosure or even a suggestion of submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time while at the same time transporting treated sawmill waste toward an outlet of a conveyor mechanism. In the Office Action, the Examiner cites page 6, lines 28-32 of Rampton, where it states that ". . .*[t]he oscillatory motion of the walking beam conveyor 23 ... serves to continuously agitate the bark particles to ensure complete and even chemical treatment*, . . ." and asserts that ". . . *[t]his clearly states that the barks will be submerged due to action of agitation to ensure complete and even treatment*. . . ." See, Office Action, page 6, lines 18-20. Applicants respectfully disagree with this assertion. Rampton does **not** teach that the sawmill waste is submerged, but rather that it is agitated. While agitation may ensure even chemical treatment of the sawmill waste, this is not the same limitation as submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time. Consequently, Applicants submit that the Rampton reference does not anticipate nor render obvious independent claim 1 and dependent claims 5-7, 12, and 32-34.

With regard to Items 2 and 3, claim 2 stands rejected in view of a proposed combination of "Rampton" reference (WO 95/03371) with the "Lebo" reference (U.S. Patent No. 3,960,718). Claim 8 stands rejected in view of Rampton (WO 95/03371). These rejections are respectfully traversed.

The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), set out the framework for applying the statutory language of §103:

1. Determining the scope and content of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering any relevant secondary considerations.

The teachings of Rampton are discussed above. Lebo teaches a mixture of sawmill waste with sewage sludge. The Examiner contends that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Rampton by adding sewage sludge as taught by Lebo. Applicants submit that the combination of Rampton and Lebo fails to teach or suggest a method for production of organic plant growth media from sawmill waste, including the step of submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time, while at the same time, transporting treated sawmill waste toward an outlet of a conveyor mechanism, wherein the sawmill waste includes, *inter alia*, sewage sludge, as recited in claim 2.

The combination of Rampton and Lebo, taken as a whole, does not teach or suggest all the elements of claim 2 (which depends from claim 1). Specifically, missing is the step of submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time. Nor are there any teachings or suggestions in the cited references that would motivate one of skill in the art to modify their disclosures to arrive at Applicants' method

for production of organic plant growth media from sawmill waste, wherein the sawmill waste includes sewage sludge. Therefore, Applicants submit that a *prima facie* case of obviousness under 35 US. § 103(a) has not been established, and that claim 2 is non-obvious over the prior art relied upon by the Examiner.

The Examiner's rationale for rejecting claim 8 under 35 USC § 103(a) is that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Rampton by having the waste pass through a 12 mm screen in order to assure that the material is uniform size. Applicants respectfully disagree with this conclusion. Rampton does not teach or suggest all the elements of claim 8 (which depends from claim 1). As discussed above, missing is the step of submerging sawmill waste comprising exogenous bark to which endogenous bark is adhered in a body of heated water for a predetermined period of time. Nor are there any teachings or suggestions in the Rampton reference that would motivate one of skill in the art to modify its disclosure to arrive at Applicants' method for production of organic plant growth media from sawmill waste, wherein the sawmill waste passes through a 12 mm screen before introduction into the conveyor system. Therefore, Applicants submit that a *prima facie* case of obviousness under 35 US. § 103(a) has not been established, and that claim 8 is non-obvious over the prior art relied upon by the Examiner.

In view of the foregoing, Applicant respectfully submit that claims 1, 2, 5-8, 12, 32-34 are in condition for allowance. Favorable reconsideration is therefore respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicant's undersigned Attorney invites the Examiner to telephone him at **215-979-1255**.

Respectfully Submitted,

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